

**Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201**

Department of the Treasury

Number: **202032005**
Release Date: 8/7/2020

Date: May 12, 2020

Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

LEGEND:

B = organization
C = location
D = date 1
E = date 2
F = date 3
G = date 4
H = date 5
x dollars = amount
y dollars = amount

UIL:
4942.03-07

Dear :

Why you are receiving this letter

This is our response to your August 23, 2019 letter requesting approval of a set-aside under Internal Revenue Code Section 4942(g)(2). You've been recognized as tax-exempt under Section 501(c)(3) of the Code and have been determined to be a private foundation under Section 509(a).

Our determination

Based on the information furnished, your set-aside program is approved under Internal Revenue Code Section 4942(g)(2). As required under Section 4942(g)(2), the set aside amount must be paid within the 60-month period after the date of the first set-aside.

Description of set-aside request

You are requesting the advance approval of a set-aside of x dollars for B, who owns and maintains C. B will use the funds to restore C's historical appearance consistent with preservation standards, including interior and exterior renovations. The ultimate goal is to return the building to its historic appearance and provide the infrastructure for safe agriculture and horticulture interpretation, humanities

programing, and extended outreach of B. The total cost of the project is estimated to be approximately y dollars.

Your grant is the subject of an agreement between you and B. Pursuant to the terms of the agreement, you will make a matching grant of x dollars to B to fund approximately one-third of the estimated cost of the project if certain conditions described in the agreement are satisfied. It is anticipated that the remaining two-thirds of the cost of the project will be funded by donations and grants made to B as a result of fundraising activities undertaken by them in response to your matching grant challenge.

If B satisfies the terms of the agreement, you will distribute the funds to them within 21 business days. They must use the funds solely for reimbursable costs actually incurred by B for labor, materials, fees and permits for the project, including the labor, materials and other items described in the connection with the project and for no other purpose.

Your obligation to make the grant to B is subject to the following conditions:

- On or before H, B shall have received the minimum eligible matching contributions, approximately two thirds of the project cost and shall have provided to you evidence that the eligible matching contributions have been received;
- On or before D, B shall have engaged an architectural or contracting firm as the supervising architect or construction manager for the restoration of the D;
- On or before E, B shall have submitted to you the drawings, plans and specifications for the project;
- On or before F, you shall be satisfied that B has sufficient funding to complete the project.
- Prior to disbursement of any portion of the funds, B shall have received from you written approval on the contractor, vendor or other supplier and all finally awarded contracts exceeding 5% of the total project costs for the labor and/or materials.

Payment must be made not later than G (21 business days after the latest possible date for satisfaction of the specified conditions), which is less than 60 months from the date of the set-aside.

The grant is better used as a set-aside to allow for B to raise the needed matching funds to satisfy the agreement, and also allows for B to exert control of the long term project.

Basis for our determination

Internal Revenue Code Section 4942(g)(2)(A) states that an amount set aside for a specific project, which includes one or more purposes described in Section 170(c)(2)(B), may be treated as a qualifying distribution if it meets the requirements of Section 4942(g)(2)(B).

Section 4942(g)(2)(B) of the Code states that an amount set aside for a specific project will meet the requirements of this subparagraph if, at the time of the set-aside, the foundation establishes that the amount will be paid within five years and either clause (i) or (ii) are satisfied.

Section 4942(g)(2)(B)(i) of the Code is satisfied if, at the time of the set-aside, the private foundation establishes that the project can better be accomplished using the set-aside than by making an immediate payment.

Section 53.4942(a)-3(b)(1) of the Foundations and Similar Excise Taxes Regulations provides that a private foundation may establish a project as better accomplished by a set-aside than by immediate payment if the set-aside satisfies the suitability test described in Section 53.4942(a)-3(b)(2).

Section 53.4942(a)-3(b)(2) of the Foundations and Similar Excise Taxes Regulations provides that specific projects better accomplished using a set-aside include, but are not limited to, projects where relatively long-term expenditures must be made requiring more than one year's income to assure their continuity.

In Revenue Ruling 74-450, 1974-2 C.B. 388, an operating foundation converted a portion of newly acquired land into a public park under a four-year construction contract. The construction contract payments were to be made mainly during the final two years. This constituted a "specific project." The foundation's set-aside of all its excess earnings for four years was treated as a qualifying distribution under Internal Revenue Code Section 4942(g)(2).

What you must do

Your approved set-aside(s) will be documented on your records as pledges or obligations to be paid by the date specified. The amounts set aside will be taken into account to determine your minimum investment return under Internal Revenue Code Section 4942(e)(1)(A), and the income attributable to your set aside(s) will also be taken into account in computing your adjusted net income under Section 4942(f) of the Code.

Additional information

This determination is directed only to the organization that requested it. Internal Revenue Code Section 6110(k)(3) provides that it may not be used or cited as a precedent.

Please keep a copy of this letter in your records. We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person listed in the heading of this letter.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements